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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,394	02/06/2004	Christopher T. Rich	P68779US1	5027

136 7590 08/10/2005

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EXAMINER

HUNNINGS, TRAVIS R

ART UNIT PAPER NUMBER

2632

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,394

Applicant(s)

RICH ET AL.

Examiner

Travis R. Hunnings

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 11 is/are rejected.
- 7) ☒ Claim(s) 5-10 and 12-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claim 2, the phrase "generally" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fry (PCT WO 86/02526) in view of Householder (US Patent 4,953,223).

Regarding claim 1, Fry discloses *Electronic Frequency Modulator* that has the following claimed limitations:

The claimed at least a first and second ultrasound transmitters is met by the plurality of known transducer heads (page 3, line 38);

The claimed each of said transmitters including a housing having a top, a bottom, a front, and a rear is met by the plurality of transducers as shown in figure 1;

The claimed speaker within each housing for emitting ultrasonic sound waves from said front of said housing, said speaker having a back member is met by the transducers as shown in figure 1 (page 2, lines 9-11 and the table found on pages 2 and 3);

The claimed source of electrical power for each of said speakers is met by the power supply (page 4, line 4);

The claimed base member is met by the plate as seen in figure 1 (page 4, line 2);

The claimed first transmitter being supported by said base member is met by the device as seen in figure 1;

The claimed second transmitter being supported by said first transmitter is met by the device as seen in figure 1.

However, Fry does not specifically disclose the claimed second transmitter being supported by said first transmitter for rotation with respect thereto. Householder discloses *Speaker Mounting System* that teaches a plurality of vertically mounted speakers that can be rotated with respect to one another as seen in figures 1 and 2 (column 5, lines 12-16). Modifying the transducer assembly of Fry to allow the transducers to rotate with respect to one another would give the user a better coverage area and allow the device to be adapted to different environments. Therefore it would

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have been obvious to one of ordinary skill in the art at the time of the invention to modify the device disclosed by Fry according to the teachings of Householder to modify the device such that the second transducer is able to rotate with respect to the first transducer.

Regarding claim 2, the examiner takes official notice that it is well known in the art that speakers emit sound waves in a generally cone-like pattern from the front of the speaker.

Regarding claim 3, the claimed first transmitter being supported in a fixed relation by said base is met by the transducers of Fry as shown in figure 1.

Regarding claim 4, the claimed supporting stem carried by said first transmitter and having portions extending below said bottom of said first transmitter housing is met by the support column as seen in figure 1 (page 3, lines 36-39 and page 4, lines 1-3). The claimed socket in said base member and quick connection means non-rotatably securing lower terminal portions of said supporting stem in said socket is met by the conventional stays, plate and support column as seen in figure 1 (page 3, lines 36-39 and page 4, lines 1-3).

Regarding claim 11, the claim is interpreted and rejected as claim 1 stated above.

***Allowable Subject Matter***

5. Claims 5-10 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cauchy, *Self-Powered Insect And Rodent Repellent Device*, US Patent 6,301,194;

Wu, *Shrew-Expelling Device With Illuminating Function*, US Patent Publication 2003/0201874;

Saitoh, *Television Stereophonic Audio System*, US Patent 5,943,430;

Michael et al. *Omni-Directional Sound System*, US Patent 3,961,684;

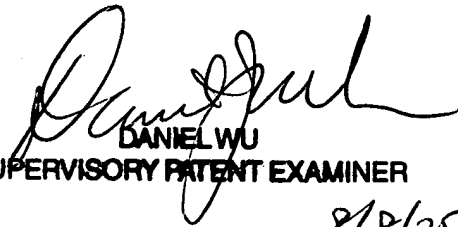
Guy, *Multi-Directional Speaker System*, US Patent 4,757,544.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis R. Hunnings whose telephone number is (571) 272-3118. The examiner can normally be reached on 8:00 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TRH

  
DANIEL WU  
SUPERVISORY PATENT EXAMINER  
8/8/05